THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO: 10937 OF 2005

DATED:08.08.2005

Between:

B.Sadananda Rao, S/o.Ramachandraiah,

Aged about 46 years, working as Manager

(under suspension) District Cooperative Central

Bank Ltd., Athmakur Branch, Warangal District.

……PETITIONER

AND

1.The Warangal District Cooperative Central

Bank Ltd., rep. by its General Manager, Subedari,

Hanmaknoda, Warangal District and another.

……RESPONDENTS

THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO:10937 of 2005

ORDER

This Writ Petition is filed by the petitioner aggrieved by the action of the second respondent in issuing show-cause notice, dated 11.4.2005 proposing to impose suitable punishment.

In the impugned show-cause notice, the second respondent as a disciplinary authority, in fact, disagreed with the findings of the enquiry officer with regard to certain charges without even giving a notice and opportunity to the petitioner. Therefore, according to the petitioner, the impugned show-cause notice is illegal and is liable to be set aside for violation of the principles of natural justice.

The learned Standing Counsel for the respondent-Bank, however, sought to sustain the impugned show-cause notice.

Heard both sides and considered the material on record.

Admittedly, disciplinary proceedings were initiated against the petitioner and accordingly an enquiry officer was appointed, who submitted his report on 26.12.2003. After receipt of the said enquiry report, the disciplinary authority instead of issuing notice calling for explanation of the petitioner after supplying a copy of the enquiry report, issued the impugned show-cause notice disagreeing in respect of some of the findings of the enquiry officer, which are in favour of the petitioner, and proposed to impose punishment.

It is well settled by catena of decisions that the disciplinary authority, after

receipt of enquiry report, has to issue a show-cause notice along with a copy of enquiry report, to the delinquent officer to enable him to submit his explanation and only then a decision can be taken. But, in the present case, admittedly, the disciplinary authority considered the enquiry report even before giving any show-cause notice and a copy of the said report to the petitioner, and in fact, the disciplinary authority even recorded his dissent with the findings of the enquiry officer in respect of certain charges, which are in favour of the petitioner. The said action of the disciplinary authority is clearly illegal and unsustainable as the said action is in utter violation of the principles of natural justice. On that simple ground, the impugned show-cause notice, dated 11.4.2005 issued by the second respondent is set aside and the matter is restored to his file directing him to issue a fresh show-cause notice if he proposes to disagree with any of the findings recorded in the enquiry report calling upon the explanation of the petitioner and thereafter after giving an opportunity to the petitioner, he can take appropriate decision with reference to the charges levelled against the petitioner.

Accordingly, the Writ Petition is allowed as indicated above. No costs.

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S. ANANDA REDDY,J

08TH AUGUST 2005

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